

attempts to contact the consumer and speaks with the consumer's adult child, who is not the consumer's legal representative. The adult child informs the creditor that the consumer is hospitalized and is unable to pay the bill at that time. The creditor defers payments for up to three months, without penalty, for the hospitalized consumer and sends the consumer a letter confirming this practice and the date on which the next payment will be due. The creditor has obtained and used medical information to determine whether the provisions of a medically-triggered forbearance practice or program apply to a consumer.

PART 233—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING (REGULATION GG)

Sec.

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APPENDIX A TO PART 233—MODEL NOTICE

AUTHORITY: 31 U.S.C. 5364.

SOURCE: Reg. GG, 73 FR 69405, Nov. 18, 2008, unless otherwise noted.

§ 233.1 Authority, purpose, collection of information, and incorporation by reference.

(a) *Authority.* This part is issued jointly by the Board of Governors of the Federal Reserve System (Board) and the Secretary of the Department of the Treasury (Treasury) under section 802 of the Unlawful Internet Gambling Enforcement Act of 2006 (Act) (enacted as Title VIII of the Security and Accountability For Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884, and codified at 31 U.S.C. 5361–5367). The Act states that none of its provisions shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States. *See* 31 U.S.C. 5361(b). In addition, the Act states that its provisions are not intended to

change which activities related to horseracing may or may not be allowed under Federal law, are not intended to change the existing relationship between the Interstate Horseracing Act of 1978 (IHA) (15 U.S.C. 3001 *et seq.*) and other Federal statutes in effect on October 13, 2006, the date of the Act's enactment, and are not intended to resolve any existing disagreements over how to interpret the relationship between the IHA and other Federal statutes. *See* 31 U.S.C. 5362(10)(D)(iii). This part is intended to be consistent with these provisions.

(b) *Purpose.* The purpose of this part is to issue implementing regulations as required by the Act. The part sets out necessary definitions, designates payment systems subject to the requirements of this part, exempts certain participants in designated payment systems from certain requirements of this part, provides nonexclusive examples of policies and procedures reasonably designed to identify and block, or otherwise prevent and prohibit, restricted transactions, and sets out the Federal entities that have exclusive regulatory enforcement authority with respect to the designated payments systems and non-exempt participants therein.

(c) *Collection of information.* The Office of Management and Budget (OMB) has approved the collection of information requirements in this part for the Department of the Treasury and assigned OMB control number 1505-0204. The Board has approved the collection of information requirements in this part under the authority delegated to the Board by OMB, and assigned OMB control number 7100-0317.

(d) *Incorporation by reference—relevant definitions from ACH rules.* (1) This part incorporates by reference the relevant definitions of ACH terms as published in the “2008 ACH Rules: A Complete Guide to Rules & Regulations Governing the ACH Network” (the “ACH Rules”). The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the “2008 ACH Rules” are available from the National Automated Clearing House Association, Suite 100, 13450

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Sunrise Valley Drive, Herndon, Virginia 20171, <http://nacha.org>, (703) 561-1100. Copies also are available for public inspection at the Department of Treasury Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, and the National Archives and Records Administration (NARA). Before visiting the Treasury library, you must call (202) 622-0990 for an appointment. For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html 20002.

(2) Any amendment to definitions of the relevant ACH terms in the ACH Rules shall not apply to this part unless the Treasury and the Board jointly accept such amendment by publishing notice of acceptance of the amendment to this part in the FEDERAL REGISTER. An amendment to the definition of a relevant ACH term in the ACH Rules that is accepted by the Treasury and the Board shall apply to this part on the effective date of the rulemaking specified by the Treasury and the Board in the joint FEDERAL REGISTER notice expressly accepting such amendment.

§ 233.2 Definitions.

The following definitions apply solely for purposes of this part:

(a) *Actual knowledge* with respect to a transaction or commercial customer means when a particular fact with respect to that transaction or commercial customer is known by or brought to the attention of:

(1) An individual in the organization responsible for the organization's compliance function with respect to that transaction or commercial customer; or

(2) An officer of the organization.

(b) *Automated clearing house system* or *ACH system* means a funds transfer system, primarily governed by the ACH Rules, which provides for the clearing and settlement of batched electronic entries for participating financial institutions. When referring to ACH systems, the terms in this regulation (such as "originating depository financial institution," "operator," "origi-

nating gateway operator," "receiving depository financial institution," "receiving gateway operator," and "third-party sender") are defined as those terms are defined in the ACH Rules.

(c) *Bet or wager*:

(1) Means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

(2) Includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(3) Includes any scheme of a type described in 28 U.S.C. 3702;

(4) Includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering (which does not include the activities of a financial transaction provider, or any interactive computer service or telecommunications service); and

(5) Does not include—

(i) Any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of that act (15 U.S.C. 78c(a)(10)));

(ii) Any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(iii) Any over-the-counter derivative instrument;

(iv) Any other transaction that—

(A) Is excluded or exempt from regulation under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*); or

(B) Is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act (7 U.S.C. 16(e)) or section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a));

(v) Any contract of indemnity or guarantee;

(vi) Any contract for insurance;

(vii) Any deposit or other transaction with an insured depository institution;